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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,995	11/13/2001	Rudi Koelle	225/50556	6047

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,995

Applicant(s)

KOELLE ET AL.

Examiner

Carlos Lugo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,8,9,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Drawing Attachment.

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on March 12, 2004.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the transverse axis must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined

under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. **Claims 1-3 are rejected** under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,234,041 to Larabet et al (Larabet).

Regarding claim 1, Larabet discloses a door handle arrangement (10) for a door of a vehicle, wherein the vehicle present orthogonal longitudinal and vertical axes, comprising an outside handle pull (32) being pivotally mounted about a swiveling axis (40) at a forward or rear end of the handle pull to a carrier component within a mounting (30). The handle pull further has a grip portion (32b) between the ends. The grip portion and the ends are disposed in a plane perpendicular to the vertical axis when the handle pull is at a rest position (Figure 2).

The mounting is designed such that the swiveling axis is tilted in a direction transverse to the longitudinal axis and away from the vertical axis, such that the handle pull pivots upward and outward when the door lock is opened (because of the inclination of the door handle arrangement with respect to the door, see attachment).

As to claim 2, Larabet discloses that the handle pull is guided within a guide mechanism (30e), at an end that faces away from the pivotally-mounted end of the handle pull, with sides of the guide mechanism defining a guide direction that is tilted relative to the longitudinal axis of the vehicle, and wherein an angle between the guide direction and the longitudinal axis of the vehicle is substantially equal to an angle formed between the swiveling axis and the vertical axis of the vehicle.

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As to claim 3, Larabet discloses that a guide element (32g) held within the guide mechanism of the handle pull is equipped with contact zones, which extend substantially parallel to the corresponding sides of the guide mechanism.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 8 and 9 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,234,041 to Larabet et al (Larabet).

Larabet fails to disclose that wherein at least in an area of the handle pull ends, an upper side or an underneath side of the handle pull extends approximately parallel to the longitudinal axis of the vehicle.

However, this limitation does not provide any utility in the movement of the door handle, it is just for the aesthetic of the handle (Specification Page 6 and 11).

A change in ornamental design having no mechanical function is an aesthetic design consideration within the skill of the art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a structure to give a visual effect, because it is just an ornamental design that has no mechanical function.

Response to Arguments

7. Applicant's arguments filed on March 12, 2004 have been fully considered but they are not persuasive.

Regarding applicant's arguments that the drawings illustrate the transverse axis (Page 6 Line 1), the drawings do not show this transverse axis. As cited in the specification and in claim 1, there is a vertical axis 13, a longitudinal axis 18 and a swiveling axis 9. However, claim 2 recites a new axis, a transverse axis. The applicant explanation is that the transverse axis is the longitudinal axis 18. If this is true, then the examiner advice the applicant to change the word "a transverse" to - said longitudinal-, as cited before.

As to applicant's arguments to the 102 rejection in view of Agostini (Page 8 Line 6), the rejection is withdrawn.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo
Examiner
Art Unit 3677

March 29, 2004.

A handwritten signature in black ink, appearing to read "Robert J. Sandy", written in a cursive style.

ROBERT J. SANDY
PRIMARY EXAMINER